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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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MAY 16 1998

In the Matter of)
)
Implementation of the Pay Telephone)
Reclassification and Compensation)
Provisions of the Telecommunications) CC Docket No. 96-128
Act of 1996)
)
AT&T Request for Limited Waiver)
Of the Per-Call Compensation Obligation)

To: Chief, Common Carrier Bureau

SPRINT'S OPPOSITION TO PETITION FOR RECONSIDERATION

Sprint Corporation opposes the petition of American Public Communications Council (APCC) for reconsideration of the Bureau's April 3, 1998 Order in the above-captioned proceeding (DA 98-642).

In its petition, APCC requests higher per-phone payments for non-LEC payphones than for LEC phones (a) where payphone-specific ANI digits are temporarily unavailable and (b) in non-equal access areas and areas served by small and medium LECs that are eligible for indefinite waivers of the obligation to provide payphone-specific ANI digits. Although this opposition is focused on compensation to the latter group of payphones, Sprint categorically objects to differentiation as between LEC

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payphones and non-LEC payphones for the purposes of setting any form of per-phone compensation. The Commission has placed LEC and non-LEC payphones on identical competitive footings, and there is no basis for differentiating between the two types of phones for purposes of establishing compensation.

Specifically with respect to phones in non-equal access areas, it is Sprint's position that: (1) any per-phone compensation should be based on the average number of compensable calls per payphone, based on a statistically valid random sample of payphones in such areas; (2) the compensation must be based on a reasonable, cost-based per-call rate; (3) the per-phone rate must be equitably distributed among all carriers that receive compensable calls from such phones; and (4) an adjustment must be made to reflect the incidence of out-of-service payphones.¹ The Bureau's April 3 Order, as clarified by its April 10 Order (DA 98-701), fell short of meeting these criteria in all respects. There is no allowance for out-of-service payphones, compensation was limited to only ten carriers, the per-call rate on which the per-phone rate was set is far greater than costs, and there is no showing that the LEC data on which the Bureau relied constitute a random sample of payphones. Because of the small amount of compensation involved (\$0.49 per month per phone in Sprint's case), Sprint did not challenge those aspects of the April 3 Order. However, Sprint does object to any effort to increase compensation for payphones – whether they are owned by LECs or independent payphone providers (IPPs) – unless any such adjusted compensation is consistent with these criteria.

¹ See Comments of Sprint on ANI Digit Waiver Requests, October 30, 1997, at 3; and ex parte letter from Sprint dated February 13, 1998, citing an article stating that a spot check of payphones in the Miami area revealed that 15% were out of service.

In this regard, APCC does not claim that the per-phone call data shown therein is based on a statistically valid random sample of payphones in non-equal-access areas. Rather, the data come from phones selected by APCC's members in areas served by small and medium sized LECs, without regard to whether the phones are located in non-equal-access areas. Similarly, there is no showing that the phones are located in areas that will be subject to indefinite waivers of the obligation to provide payphone-specific ANI digits. It is obviously in the self-interest of APCC's members to select the very highest volume phones for their study, so as to inflate the amount of compensation they will achieve. Reliance on such self-serving data would be inconsistent with fair and reasoned decision-making.

It should also be noted that both of the studies on which APCC relied, described in its Attachment 1, use surrogates, rather than measures of actual completed calls, to ascertain the number of compensable calls. In one case the surrogate is 60 seconds for call reaching an operator services platform and in the other case, a 45 second surrogate is used. Sprint believes that such surrogates could treat a large number of operator assisted calls as completed even though they may not ultimately reach the intended party. In particular, calls that ultimately "time out" to a live operator, can easily consume 45 seconds, or even 60 seconds, in set-up time before the phone of the called party starts to ring.

In short, APCC has failed to show that the evidence it asks the Bureau to rely on has any statistical validity whatsoever for the purpose it was proffered. Any

determination to increase the amount of compensation to phones in non-equal-access areas, based on APCC's data, would be arbitrary and capricious.

Respectfully submitted,

SPRINT CORPORATION

A handwritten signature in dark ink, appearing to read "Jay C. Keithley", written over a horizontal line.

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May 19, 1998

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Sprint Opposition to Petition for Reconsideration was Hand Delivered or sent by United States first-class mail, postage prepaid, on this the 19th day of May, 1998 to the below-listed parties:


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